

MILK RIVER WATERSHED NEWS

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Legislature and Governor Approves Compact

By Joan Speckling, Reserved Water Rights Compact Commission

The Fort Belknap Compact passed the Montana Legislature with a strong majority and was signed into law by Governor Martz on April 16, 2001. Representative Matt McCann of Harlem sponsored the bill. The compact settled the reserved water rights of the Gros Ventre and Assiniboine Tribes on the Fort Belknap Reservation. The Compact was supported by the Milk River Joint Board of Control, Milk River

International Alliance, water users groups, the Fort Belknap Indian Community, the State of Montana and the Montana Water Resources Association. Opposition came from the Gros Ventre Treaty Committee and representatives of the Blackfeet Nation. The successful outcome took fifteen years of hard work and tough negotiations from the Fort Belknap Indian Community, the State of Montana and the United States federal government.

The next step is for the nego-

tiators to continue working on defining the measures needed to mitigate the effects of the tribal water rights on existing water users and to determine who will pay for these new projects. The information will be included in a bill that will be submitted to US Congress. If the federal legislation passes, the compact will be presented to the Tribes for a referendum vote. If passed, it will then be submitted to the Montana Water Court for inclusion into the appropriate water right decrees. ✓

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Irrigation Water Supply will be Short

By Scott Guentbner, USBR

This may be a tough year for irrigators in the Milk River. Many of you may recall the poor water supply conditions of last year. Releases from Fresno Reservoir were discontinued on August 14 and water storage was nearly depleted in Sherburne, Fresno and Nelson reservoirs by September. The relatively mild winter of 2000-2001 has made conditions worse as the surrounding plains and Mountains that feed water to the Milk and St. Mary rivers received below average snow accumulation. Since

January, water managers and Milk River water users have been concerned about the re-occurrence of another year of drought.

The Milk River Joint Board of Control met with the Bureau of Reclamation on March 20 in Malta to discuss the available water supply. The runoff for the April through July period is expected to be less than 20 percent of normal for the Milk River and less

(Continued on Page 2)

Representatives on the Milk River JBC include the following:

Kay Blatter
Hugh Brookie
Melvin Novak
Lee Cornwell
Jack Gist

Chairman
Vice-Chairman
Secretary
Member
Member

Fort Belknap Irr. Dist.
Malta Irr. Dist.
Glasgow Irr. Dist.
Glasgow Irr. Dist.
Alfalfa Valley Irr. Dist.

Casey Kienenberger Member
Knut Kulbeck Member
Bim Strausser Member
Brad Tilleman Member
Steve Tremblay Member

Malta Irr. Dist.
Harlem Irr. Dist.
Paradise Valley Irr. Dist.
Zurich Irr. Dist.
Dodson Irr. Dist.

than 45 percent of normal for the St. Mary River. The Joint Board of Control, who represent eight irrigation districts in the basin and about 80 percent of the irrigated acreage, agreed to delay starting the irrigation season until May 15. This delay would allow water to be moved between reservoirs so that more demands could be met once irrigation deliveries began. The water supply expected to be available at the water users' headgates will amount to approximately 0.9 acre-feet of water for each acre of irrigated land. This is less than half the normal water supply.

Water users remember and often recall the dry years of 1977, 1985, and 1988. Figure 1 compares drought conditions for 1977, 1985, 1988 and projected conditions for 2001 for:

- 1) the combined storage in Sherburne, Fresno and Nelson Reservoirs on March 1;

- 2) total March through August inflows into Fresno Reservoir; and
- 3) total releases from Fresno Reservoir for April through August for 1977, 1985, 1988, and those expected for 2001.

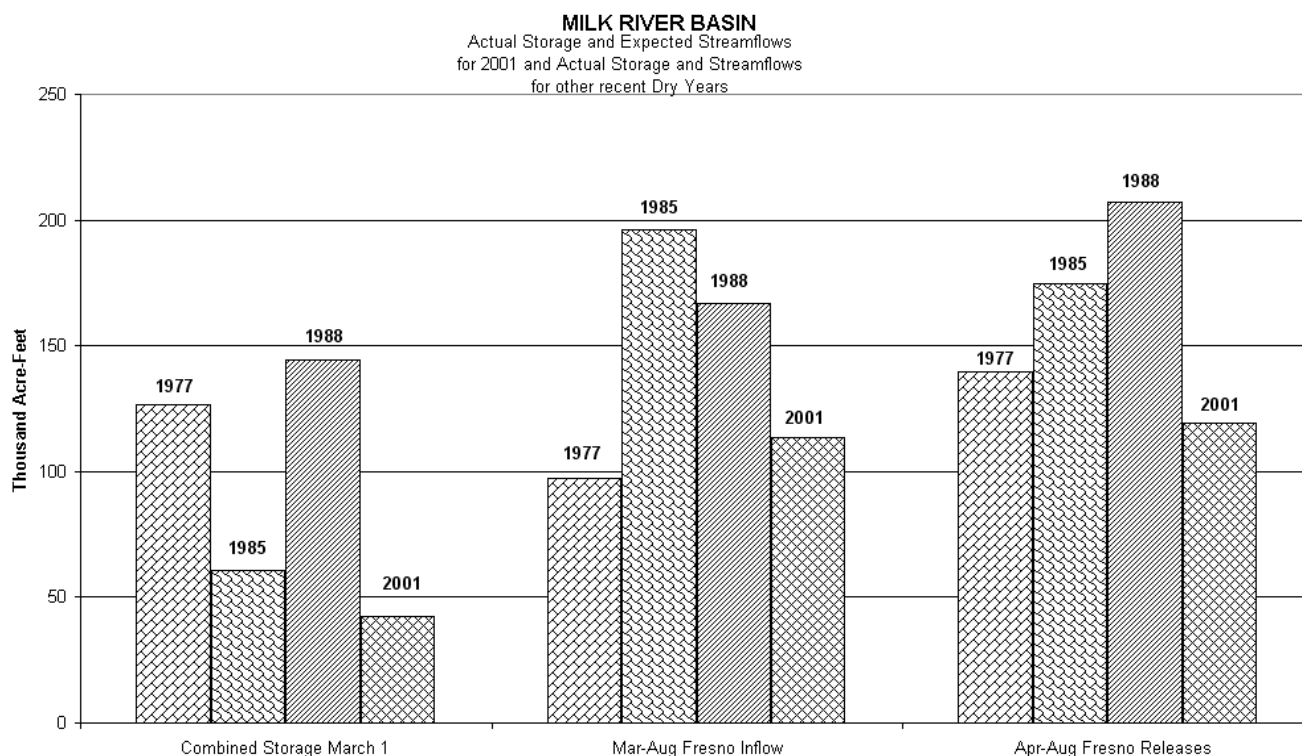
As you can see from Figure 1, combined storage in the three reservoirs and releases from Fresno should be worse this summer than in the other three drought years. Only in 1977 were inflows into Fresno projected to be worse.

A major storm brought more than 20 inches of snow to some areas in the headwaters of the Milk River near Glacier National Park during the first week of April. This unexpected weather delayed the start-up of the St. Mary Canal by at least 10 days causing a further delay in transferring much needed water to the Milk River Basin. This delay has also resulted in a reduction in the amount of water transferred

to Nelson Reservoir. All of these factors could result in a further delay in the irrigation season. The Milk River Joint Board of Control will reconsider the start of irrigation on or before May 15. This year, the location and timing of delivery of the water supply may be more important than the actual amount of water delivered.

Overall, water supply conditions improved during April, but not enough to increase the expected water supply above the 0.9 acre-feet of water per acre of land. Unless timely, above average rainfall occurs across the basin from May through early July, water supplies may be fully depleted by mid to late July. ✓

FIGURE 1.



What Does The Fort Belknap Compact Say?

By Rich Moy, DNRC

Tribal Water Right

Milk River

The Fort Belknap Tribes are entitled to divert the first 645 cubic feet per second (cfs) of natural flow from the Milk River. The Tribes, however, are only entitled to the U.S. share of the Milk River as defined under the 1909 Boundary Waters Treaty between the U.S. and Canada. To preserve historic irrigation on the reservation, the Tribes are entitled to continue diverting up to 125 cfs of this amount for irrigating 10,425 acres. The remaining 520 cfs may be diverted for direct use or stored in an off-stream reservoir for irrigating an additional 19,390 acres on the reservation. Up to 4,000 acre-feet per year of the 520 cfs can be used for purposes other than irrigation. The off-stream reservoir project is limited to maximum storage capacity of 60,000 acre-feet.

Peoples Creek

The Tribes are entitled to all the water in Peoples Creek after the existing water rights upstream of

the reservation are satisfied. The Tribes are also entitled to construct a reservoir on the reservation to keep water instream for stockwatering, fisheries, and recreation.

Beaver Creek

The Tribes are entitled to continue irrigating the 2,241 acres that have been irrigated historically, to build small stock water impoundments in the basin, and to irrigate 180 more acres.

Missouri River Basin (40EJ)

The Tribes are entitled to continue using water for stock, domestic uses and to build small impoundments for stock watering on the reservation. Water rights that have been acquired with the purchase of land off the reservation are recognized in the compact, but will be administered by State law.

Groundwater

All existing groundwater uses on the reservation are protected. Any new groundwater use that is

determined to be connected to surface water is counted against the Tribal surface water rights as described above. Groundwater that is not connected to surface water can be developed unless existing water users would be adversely affected. Small wells of 35 gallons per minute (gpm) or less are exempted from the provisions of the compact and can be developed.

Priority Date of the Tribal Water Right

The priority date of the Tribal water right is October 17, 1855 based on the date the Stephens Treaty was signed between the United States and the Blackfeet Tribes. The Gros Ventre Tribe was a party to the Treaty. Water use on the tributaries of the Milk River that are upstream of the reservation are protected from a call by the Tribes. But if the Tribes cannot satisfy their water rights from the natural flow of the Milk River, they have the ability to call water to be released from Fresno Reservoir. The proposed mitigation measures (discussed below) are to provide a more certain water supply to the existing water users after the tribal water right is developed

Administration

The Tribes are entitled to administer the tribal water right. They will establish a process for recognizing water rights allocated to allotted land and for fee land within the reservation. The U.S. Bureau of Indian Affairs will continue to administer the BIA projects. Irrigation companies will continue to administer those BIA projects that have been transferred to them. The U.S.

FRESNO RESERVOIR



Bob Larson of the DNRC standing within Fresno Reservoir. Only 8,087 acre-feet of water was in the reservoir on April 27. St. Mary's water was predicted to arrive in Fresno Reservoir by May 15.

EDITORIAL

The Need For Combined Efforts

By Kay Blatter

As I sit here in my kitchen, I am enjoying the light rain that is falling. I am always giving thanks for the wonderful moisture that falls, especially to the west of us for it fills our reservoirs, but also to the rain that quenches the thirst of thousands of acres of grass land and cropland both here and for our neighbors to the north. I'm sure the moisture is the result of a lot of prayers by a lot of wonderful people in the Milk River drainage of Montana, Alberta and Saskatchewan. It is the combined effort that counts.

I can't help but think what happens when we all work together. This brings to mind the successful workshop that was organized by folks from Alberta, Saskatchewan and Montana and held in January 1999 in Havre. The workshop and its video entitled "*The Milk River: International Lifeline of the Hi-line*" helped us better understand each other's needs for water from the Milk River and its tributaries.

The tour that was sponsored by the Milk River International Alliance (MRIA) was also a combined effort. We had a chance to visit the St Mary diversion dam, siphon and canal project, Sherburne Dam, and several projects in southern Canada. This joint Canadian/US sponsored tour helped not only to promote a better understanding of each others water needs, but good will between us and our neighbors to the north.

Since the organization of the MRIA on March 25, 1999, our Canadian neighbors have attended several meetings, and helped and cooperated on a number of projects. They assisted greatly with the irrigation tour. In the mission statement of the MRIA are the words "collaboration and coordination", but again, to me it is the combined effort that is the key for improving water management in the basin. Local people are just starting to realize the daunting challenges we face in moving water from Sherburne Dam through nearly 1,000 miles of river channel and canal before it reaches Glasgow. The cost of current O& M, cost of upgrading the canal system, endangered species such as Bull trout, public relations, etc are all challenges that we must face together.

I feel the overall goal of the MRIA is to get as many people as we can from different interests together. They include irrigators, and those folks interested in water sports, fisheries, hunting, wildlife and even people not interested in the above activities but



Kay Blatter

are concerned about the communities and people that live in and along the Milk River. We need to meet together and work for the good of not only the basin, but also the people that live there (as Maïdo McCartney used to say in her "Chinook Hour" on KOJM radio, "The Dear Hearts and Gentle People").

The members of the MRIA have made mistakes as we try to begin addressing issues and concerns in the basin and for these mistakes we ask for your forgiveness and understanding. Let's move forward for the good of the people of the basin and again with combined efforts.

The Milk River Joint Board of Control was organized in July 1999 after a lot of agonizing discussion and meetings. I feel the Joint Board of Control has been a tremendous asset to the eight irrigation districts and the Fort Belknap Tribes. Through a combined effort of working together, meeting, and discussing issues, we are feeling more comfortable about talking things out and bringing up problems. We are learning how to achieve consensus as to what needs to be done and then to get on with it.

I greatly appreciate everyone's willingness to serve on the Joint Board and for the time they have dedicated to accomplish the work of the river and basin. For without them, the Board of Control wouldn't work. I know everyone has farms or ranches of their own to take care

(Combined Efforts, continued from Page 4)

of and some have other jobs as well. I know, I was there. I feel their involvement in the Joint Board of Control and in the negotiations of the Fort Belknap compact has made a lot of difference in the overall outcome of the compact and will be a great advantage to us if we stay involved and keep current. I also feel that the continued involvement of the various state and federal agencies with the Milk River Joint Board of Control is important. They help write grants and obtain funding to help us solve some of our challenges.

It is my hope that we can continue our combined efforts through the entire Milk River Basin and across the border to preserve the lifestyle that we have come

to love and appreciate. We need to maintain the quality and quantity of this lifestyle so that it will be here for years to come for the benefit of our grandchildren and their grandchildren. ✓

Kay Blatter is chair of both the Joint Board of Control and the Milk River International Alliance.

(Compact continued from Page 3)

Bureau of Reclamation will continue administering its water service contract for water from the Milk River Project. The State will continue to administer state-based water rights.

Milk River Coordinating Committee

The Milk River Coordinating Committee has the responsibility: 1) to coordinate storage and the release of water from the Milk River project to the various user groups; and 2) to implement a grant and loan program to improve water use efficiencies in the Milk River Basin and to establish a water bank during periods of drought. The Committee is composed of representatives of the Tribes, the Milk River Joint Board of Control, the U.S. Bureau of Reclamation, the U.S. Bureau of Indian Affairs, and the Montana Department of Natural Resources and Conservation.

Dispute Resolution

Water commissioners will be appointed by state court judges to enforce the distribution of water

from the Milk River. A Compact Board is established to resolve those disputes within the Milk River Basin (that do not fall under authority of the water commissioners) and within Peoples and Beaver Creeks and a portion of the Missouri River Basin (40EJ). A process is established in the compact for assuring that all changes in use of the tribal water right or a state-based water right, do not adversely impact other water rights.

New Tribal Development

New Tribal water developments are anticipated in the compact. Funding and authorization for each tribal project must be obtained from the U.S. Congress.

Non Tribal Mitigation Projects

To help protect the availability of existing water supplies for non-tribal water users, the Compact contemplates improvements to the Milk River Project such as increasing storage and improving the operation of existing storage facilities. Because the Milk River Project is a federal project, Congressional authorization and

funding will be required. A cost share arrangement will need to be established between the State of Montana and the United States.

Cop-out Provision

The Compact allows Montana's Governor, on behalf of the water users, to withdraw from the Compact if mitigation measures are not ultimately agreed to, authorized, funded, and built.

Rehabilitation of the St Mary Diversion Works and Canal

The negotiators realized the importance of rehabilitating the St. Mary River diversion works and canal system. But after much discussion, it was felt that this issue should not be included in the Compact. A better approach for rehabilitating the project would be to develop and support separate federal and state legislation. The parties to the Compact have agreed to work together with the Blackfeet Tribe and the Milk River Irrigation Districts to determine the most appropriate means for ensuring the viability of the St. Mary's diversion works and canal system. ✓

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Southwestern Saskatchewan Irrigation Tour Planned

By Marc Cross, DNRC Havre

The Milk River International Alliance in cooperation with Sask Water of Saskatchewan is scheduling a tour of the eastern tributaries of the Milk River in Saskatchewan on June 18 and 19th, 2001. Tour highlights will include a Cypress Lake Irrigation Demonstration Project, which involves intensive alfalfa management for yield and quality, an overnight stay at the beautiful Cypress Hills Park, and tours of the Battle Creek and Frenchman River irrigation projects.

Participation will be limited to the

first 15 Montana irrigators who apply. In an effort to minimize costs to participants, the Milk River International Alliance is applying for a State Irrigation Development Grant from the Conservation and Resource Development Division of the Montana Department of Natural Resources and Conservation.

If you are interested in attending the tour contact either Shilo Messerly, NRCS, Malta, 654-1334, ext. 104 or Marv Cross, DNRC, Havre, 265-5516. ✓

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